

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DANIELLE MACMILLAN,

Plaintiff,

-against-

1:07-CV-0959 (LEK/VEB)

MICHAEL J. ASTRUE, Commissioner
of Social Security,

AMENDED DECISION AND ORDER

This matter comes before the Court following a Report-Recommendation filed on November 17, 2009, by the Honorable Victor E. Bianchini, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(c) of the Northern District of New York. Report-Rec. (Dkt. No. 20). In the initial Decision and Order (Dkt. No. 21) addressing this matter, the Report-Recommendation's date of filing was inaccurately listed as October 13, 2009. This Amended Decision and Order corrects that statement.

Within ten days, excluding weekends and holidays, after a party has been served with a copy of a Magistrate Judge's Report-Recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations," FED. R. CIV. P. 72(b), in compliance with L.R. 72.1. No objections have been raised in the allotted time with respect to Judge Bianchini's Report-Recommendation. Furthermore, after examining the record, the Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice.

Accordingly, it is hereby

ORDERED, that the Report-Recommendation (Dkt. No. 20) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

ORDERED, that Defendant's Motion (Dkt. Nos. 10, 13) for judgment on the pleadings is **DENIED**; and it is further

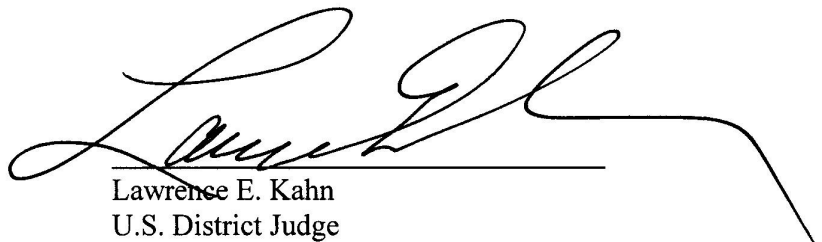
ORDERED, that Plaintiffs' Motion (Dkt. No. 8) is **GRANTED** in part and **DENIED** in part; and it is further

ORDERED, that Plaintiff's Complaint (Dkt. No. 1) is **REMANDED** for reconsideration consistent with the Report-Recommendation (Dkt. No. 20); and it is further

ORDERED, that the Clerk serve a copy of this Order on all parties.

IT IS SO ORDERED.

DATED: December 07, 2009
Albany, New York



Lawrence E. Kahn
U.S. District Judge